

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Kenneth Syncere Rivera,

Petitioner,

v.

Warden Broad River Correctional Institution,

Respondent.

Case No. 8:19-cv-3126-SAL

ORDER

This matter is before the Court for review of the November 15, 2019 Report and Recommendation (“Report”) of United States Magistrate Judge Jacquelyn D. Austin, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02, (D.S.C.). In the Report, the Magistrate Judge recommends dismissing the Petition in this action without prejudice as successive. *See* ECF No. 10.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The Court is charged with making a de novo determination of only those portions of the Report that have been specifically objected to, and the Court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). In the absence of objections, the Court is not required to provide an explanation for adopting the Report and must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (citing Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the Report, the applicable law, and the record of this case in accordance with the above standard, the Court finds no clear error, adopts the Report, and incorporates the Report by reference herein. Accordingly, the Petition, ECF No. 1, is DISMISSED without prejudice and without requiring the Respondent to file a return.

IT IS SO ORDERED.

July 20, 2020
Florence, South Carolina

/s/ Sherri A. Lydon
Sherri A. Lydon
United States District Judge